IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-526

JESUS NOVELO FERREIRA,

Petitioner,

v.

DAMPSKIBSSELSKABET NORDEN A/S and the M. S. NORDPOL,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Petitioner prays that a writ of certiorari issue to review the decision and judgment of the United States Court of Appeals for the Fifth Circuit, entered and rendered on July 3, 1972.

CITATIONS TO OPINIONS BELOW

The opinion of the United States District Court for the Eastern District of Louisiana, New Orleans Division,

is unreported; it appears in the record at pages 55 through 61, and is printed in Appendix A hereto.

The opinion of the United States Court of Appeals for the Fifth Circuit, dated July 3, 1972, is not yet reported, but is printed as Appendix B hereto.

JURISDICTION

The judgment of the United States Court of Appeals for the Fifth Circuit was rendered and entered on July 3, 1972, and is printed as Appendix B hereto. The jurisdiction of this court is invoked under 28 U.S.C. 1254(1).

QUESTIONS INVOLVED

1. Whether as has been held by the United States Court of Appeals for the Second Circuit,[1] the facts that a foreign seaman (a) signed on in an American port for a voyage beginning and ending in American waters, and (b) was injured in an American port, are alone enough to fulfill the minimum requisites for application of the Jones Act to his claim for damages arising from the injury?

2. When the seven considerations of *Lauritzen v. Larsen*, 345 U.S. 571, are found as follows, which law is to apply:

(1) Place of Wrongful Act is New Orleans, Louisiana – favor U.S. law;

(2) Law of the Flag is Danish – favor Danish law;

(3) Allegiance or domicile of the injured is Mexico – favor Mexican law;

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[1] *Kyriakos v. Goulandris*, 151 F.2d 132 (2d Cir. 1945).

(4) Allegiance of defendant shipowner is Danish – favor Danish law;

(5) Place of Contract is New Orleans, Louisiana – favor U.S. law;

(6) Inaccessibility of Foreign Forum – favor U.S. law;

(7) The Law of the Forum – favor U.S. law.

STATUTES INVOLVED

The statute involved is the Jones Act, 46 U.S.C. 688, which is as follows:

"Any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman as a result of such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located."

STATEMENT OF THE CASE

Petitioner, a seaman, brought this suit in admiralty, seeking damages against his employer [the shipowner] for personal injury he sustained in the Port of New Orleans, Louisiana, on March 22, 1971.

He claims relief under the Jones Act, 46 U.S.C. 688, and pursuant to the general maritime law of the United States including the doctrine of unseaworthiness.

Defendant moved for summary judgment claiming that the Court has no jurisdiction, and alternatively, that if the Court has jurisdiction, Danish law should apply rather than the Jones Act and the general maritime law.

The district court granted the motion for summary judgment and dismissed petitioner's suit. The United States Court of Appeals for the Fifth Circuit placed the matter on its summary calendar without allowing oral argument and affirmed the district court without giving written reasons.

STATEMENT OF THE FACTS

On March 22, 1971 petitioner was injured on board the NORDPOL while the NORDPOL was in the Port of New Orleans, Louisiana.

Petitioner was hired by respondent in New Orleans, Louisiana, on March 8, 1971, fourteen days before the accident and boarded the vessel there. The vessel made a trip to Houston, Texas, and returned to New Orleans, where it was at the time of the accident.

Petitioner was 24 years old at the time of the accident. He had been going to sea for approximately 4 years prior to the accident. Though he is a Mexican citizen, all of his

seafaring voyages were from ships on which he had been hired at the Port of New Orleans and from which he had been discharged at the Port of New Orleans [except for one instance in which he was discharged at Galveston, Texas, and reported the next day to New Orleans, Louisiana].

The respondent owners of the NORDPOL are members of what is known as the Scandinavian Ship Owners Association, which obtains seamen from certain ports in the United States through the Scandinavian Shipping Office, Inc.

The Scandinavian Shipping Office, Inc. operates as follows:[2] Seamen who are in the United States Ports of New York, San Francisco or New Orleans register with the Scandinavian Shipping Office, Inc. by giving their name, employment history, medical history, etc. The Scandinavian Shipping Office, Inc. then [particularly if it has previously placed the seamen on ships operated through the Scandinavian Ship Owners Association], classifies the seamen according to ability, etc. such that they are classified as messboy, yoeman, ordinary seaman, able-bodied seaman, etc.

The Scandinavian Shipping Office, Inc. receives word by way of telegram from the owners of the ships who are members of the association [or by telephone from a Captain of a ship owned by a member] of the seamen required when the ship arrives in port. The Scandinavian Shipping Office, Inc. then sends its registered seamen to the ship to fill the requirements.

The entirety of petitioner's seafaring career is made up of instances in which he reported to the Scandinavian

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[2]See deposition of Ingvar Eide, seriatim.

Shipping Office, Inc. establishment in New Orleans, put his name on the register, waited for an opening, and then from the Port of New Orleans went aboard ships owned by members of the Scandinavian Ship Owners Association.[3] After each voyage, he was re-classified, upward, by the Scandinavian Shipping Office, Inc. in New Orleans, Louisiana.

The NORDPOL flies a Danish flag. Respondent's uncontroverted affidavit shows that virtually all of the stock of the shipowning company is owned by Danish citizens, there being only one stockholder who is a United States citizen, and he owns only .013% of the stock in the company.

Petitioner's injury consisted, among other things, in a *50%* compression of a vertebra. His hospitalization occurred in the Port of New Orleans and his treating physician is in New Orleans.

After petitioner was discharged from the hospital [still in a body cast], he resided in New Orleans, Louisiana, until May 12, 1971.

Respondent insisted that petitioner return to Mexico, and accordingly, he went to Mexico on May 12, 1971, still in a body cast. But as of the time petitioner arrived in Mexico, respondent discontinued paying maintenance. Despite the insistence and demands of petitioner through his attorneys for the continuation of payment of maintenance, respondent did not pay one additional cent of maintenance until [after authorization had been granted by the district court for the filing of an amended complaint for maintenance], August 11, 1971! Thus, respondent left petitioner penniless but in a body cast in Mexico for approximately three months.

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[3]Petitioner's entire work history as a seafaring man is as follows:

Petitioner submits that it is a fact that except for the United States forum, he would not be properly treated and appropriate relief would not be available to him.

Though petitioner is now in Mexico, the New Orleans forum is easily accessible to him.

REASONS FOR GRANTING THE WRIT

The instant decision by the United States Court of Appeals for the Fifth Circuit is in direct conflict with the decision of the United States Court of Appeals for the Second Circuit in the case of *Kyriakos v. Goulandris*, 151 F.2d 132 (2d Cir. 1945).

In the *Kyriakos* case, the United States Court of Appeals for the Second Circuit held that the facts that a

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(a) Registered with Scandinavian Shipping Office, Inc. December 26, 1967, and signed on the SUNNY PRINCE as messboy January 3, 1968, in New Orleans, and on May 24, 1968, signed off the SUNNY PRINCE in New Orleans;

(b) Registered May 25, 1968 and signed on THE ALK as deckboy June 25, 1968, in New Orleans, and signed off THE ALK December 5, 1968, in Galveston, Texas, but reported to Scandinavian Shipping Office, Inc. in New Orleans, December 6, 1968;

(c) December 13, 1968, signed on NOPAL REX in New Orleans and signed off the NOPAL REX in New Orleans on September 12, 1968 having been classified by Scandinavian Shipping Office, Inc. as yoeman;

(d) Signed on SCANDIA CLIPPER in New Orleans as able-bodied seaman December 23, 1969 and was discharged from the SCANDIA CLIPPER in New Orleans;

(e) Registered with the Scandinavian Shipping Office, Inc. in New Orleans, March 1, 1971 and signed on the NORDPOL in New Orleans March 8, 1971. Injured in the Port of New Orleans, March 22, 1971.

foreign seaman (a) signed on in an American port for a voyage beginning and ending in American waters, and (b) was injured in an American port, are alone enough to fulfill the minimum requisites for application of the Jones Act to his claim for damages arising from the injury. In the instant case, the seaman signed on in an American port for a voyage beginning and ending in American waters and was injured in an American port, but he was denied a Jones Act remedy.

In the *Kyriakos* case, Judge Augustus Hand cogently stated:

> "The Jones Act, 46 U.S.C.A. §688, is not in terms restricted to American seamen, but gives a right of action to 'any seaman who shall suffer personal injury in the course of his employment.' . . . When Congress used the word 'seaman' in the Jones Act it employed a word of general application, embracing men of any nation who sail the seas. Had it wished to limit the application of the statute to seamen of American citizenship or residence, the words to effectuate the limitation were at hand. The legislators did not see fit to use them. With the adjective 'American' applied to seamen in the title of the very act of which the Jones Act was an amendment we cannot suppose that its omission from the statute itself was merely an oversight. Instead, it appears evident that Congress deliberately chose to leave the word 'seaman' its full and unrestricted meaning applicable to aliens and Americans alike unless in cases like The Paula, 2 Cir. 91 F.2d 1001, which we think may be distinguished in the way hereafter to be mentioned.
>
> Congress has undoubted authority to make a statute of this sort applicable to foreign vessels in

our ports. Patterson v. The Eudora, 190 U.S. 169, 23 S.Ct. 821, 47 L.Ed. 1002; see also Strathearn S.S. Co. v. Dillon, supra, at page 356, 40 S.Ct. at page 352, 64 L.Ed. 607." (Quoted from 151 F.2d, at 136 and 137).

The foreign shipowners who use our ports for their trade and commerce expect and receive the protection of our laws against both criminal and civil wrongs while in our ports. Accordingly, when they also obtain their seamen from our ports they should be subject to our maritime laws vis-a-vis such seamen at least while they are in our ports.

Similarly, those seamen, such as petitioner, who are attracted to come to America to here obtain employment on voyages beginning and ending in America and are injured in American ports should have the protection of not only our criminal laws but also our civil laws including the Jones Act while in our ports.

As stated by Judge Hand in the *Kyriakos* opinion quoted from above, the words "any seaman" in the Jones Act certainly are broad enough to, and do, include seamen who sign on in our ports for voyages beginning and ending in our ports and who are injured in our ports, and as further stated therein, Congress has authority to make the act applicable to foreign vessels while in our ports.

In the landmark case of *Lauritzen v. Larsen*, 345 U.S. 571, this court ruled that a Danish seamen who signed on a Danish vessel in New York but was injured in Cuban waters was not entitled to Jones Act relief. In denying the Jones Act relief in that case this court stated at the conclusion of its opinion: "the parties are both Danish subjects, the events took place on a Danish ship, *not*

within our territorial waters," 73 S.Ct. at 921 [emphasis added]. Further on in the same paragraph in that decision this court reiterated: "But we find no justification for interpreting the Jones Act to intervene between foreigners and their own law because of acts on a foreign ship *not in our waters*" [emphasis added]. Thus, the situation that existed in the *Kyriakos* case and in the instant case was emphatically distinguished from the situation in *Lauritzen*.

This court in *Lauritzen v. Larsen, supra*, after holding that the Jones Act was not applicable to facts in the *Lauritzen* case, set out seven considerations[4] for future assistance in determining when to apply the Jones Act in cases involving alien seamen. In so doing, this court did not overrule the prior circuit court decisions which had held the Jones Act to be applicable to alien seamen when certain conditions existed. In fact, in footnote 3 of the decision in *Lauritzen*, this court cited several circuit court decisions, including *Kyriakos*. In some of the cases cited the Jones Act had been held applicable and in some it had not. In the footnote, this court stated that "no two of the cases cited present exactly the same basis for application of American law and their contrary results do not necessarily mean inconsistency, but they illustrate different considerations which influence choice of law in maritime tort cases."

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[4]The seven considerations are:

(1) Place of Wrongful Act is New Orleans, Louisiana; (2) Law of the Flag is Danish; (3) Allegiance or domicile of the injured is Mexico; (4) Allegiance of Defendant shipowner is Danish; (5) Place of Contract is New Orleans, Louisiana; (6) Inaccessibility of Foreign Forum; (7) The Law of the Forum.

Subsequently, the question was presented to this court in *Hellenic Lines Ltd. v. Rhoditis*, 398 U.S. 306, whether, when a majority of the seven factors are against jurisdiction the Jones Act remedy must be denied. There, the ship's flag was Greek, the injured seaman was Greek, the employment contract was Greek, and the Greek forum was available to the seaman. The three factors in favor of the application of United States law were (1) that the injury occurred in United States waters, (2) that 95% of the stock of the employer corporation was owned by a United States domiciliary who was a Greek citizen, and (3) the law of the forum. This court held that the *Lauritzen* test is not a mechanical one and that the significance of one or more factors may override the other considerations.

The decision in *Rhoditis, supra*, (even if there were not already the Second Circuit decision in *Kyriakos*) favors a decision in favor of application of the Jones Act to the instant case. In *Rhoditis*, it was held that the law of the flag, which there was Greek, was not an overriding consideration and that the list of seven factors in *Lauritzen*, was not intended to be exhaustive. It is most respectfully submitted that the facts that petitioner in the instant case, for the entirety of his seafaring career, came to the Port of New Orleans and was hired through and classified through the Scandinavian Shipping Office, Inc. which regularly hires seamen for the Association of which respondent is a member, should give both the petitioner and the respondent a connexity with the United States that should be, under the rule and spirit of *Rhoditis*, an additional factor which should militate in favor of application of the Jones Act.

Thus, since neither *Lauritzen* nor *Rhoditis* overruled *Kyriakos*, and since the reasoning, policy, and rule of

Kryiakos are correct and should be the law of this land, a writ of certiorari should issue to review the decision in the instant case which presents a conflict between Circuits.

Even if *Kyriakos* had not been previously decided, a consideration of the seven factors of *Lauritzen* should require application of the Jones Act and maritime law of the United States to the instant case.

When the seven factors of *Lauritzen* are applied to the instant case, we see:

1. Place of Wrongful Act is New Orleans, Louisiana – favor U.S. law;
2. Law of the Flag is Danish – favor Danish law;
3. Allegiance or domicile of the injured [a Mexican citizen domiciled in Mexico but regularly shipped from the United States Scandinavian Shipping Office, Inc.] – favor Mexican law or possibly U.S. law;
4. Allegiance of the defendant shipowner is Danish – favor Danish law;
5. Place of Contract is New Orleans, Louisiana – favor U.S. law;
6. Inaccessibility of Forum – favor U.S. law;
7. Law of the Forum – favor U.S. law.

We know from *Rhoditis* that the law of the flag is not an overriding consideration and we know from the very reason for setting out in *Lauritzen* the seven considerations for future determinations as to when the United States law is applicable to controversies between foreigners that the allegiance of the shipowner is not an overriding consideration. These two factors are the only ones in the instant case that favor the application of Danish law.

Because of the preponderance of the other factors, in both number and weight, in favor of application of the United States law, the Jones Act and general maritime law of the United States should be held applicable to the instant case.

Because of the conflict between the instant decision of the United States Court of Appeals for the Fifth Circuit and the decision of the United States Court of Appeals for the Second Circuit in *Kyriakos, supra*, and because of the factors favoring application of the Jones Act and the general maritime law of the United States to petitioner's claims arising from his injury, it is respectfully submitted that this petition for a writ of certiorari should be granted, and in due course the case be remanded to the district court for trial on the merits.

Respectfully submitted,

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APPENDIX A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

JESUS NOVELO PERREIRA

versus

DAMPSKIBSSELSKABET NORDEN A/S
and THE M. S. NORD POL

CIVIL ACTION
NO. 71-886
SECTION "F"

– JUDGMENT –

This cause was submitted to the Court on briefs without oral argument on the motion of defendants for summary judgment.

The Court, by Minute Entry Order of December 20, 1971, with written reasons assigned, granted the motion of defendants for summary judgment and directed the judgment be entered; accordingly,

IT IS ORDERED, ADJUDGED AND DECREED that there be judgment in favor of defendants, Dampskibsselskabet Norden A/s and the M. S. Nord Pol, and against plaintiff, Jesus Novelo Perreira, dismissing said plaintiff's suit at his costs.

Dated at New Orleans, Louisiana, this *29th* day of December, 1971.

/s/BENJAMIN W. REISCH, Clerk

APPROVED AS TO FORM:

/s/Lansing L. Mitchell
UNITED STATES DISTRICT JUDGE

Philip E. Henderson, Esq.
Joe M. Inabnett, Esq.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

JESUS NOVELO PERREIRA
versus
DAMPSKIBSSELSKABET NORDEN A/S
and THE M.S. *NORD POL*

CIVIL ACTION
NO. 71-886

SECTION "F"

Attorney for Plaintiff:

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Attorney for Defendant:

Joe M. Inabnett of Terriberry, Carroll, Yancey & Farrell

This action was originally brought by plaintiff, Jesus Novelo Perreira, an alien seaman, to recover damages under the Jones Act and the general maritime law for injuries sustained aboard the Motor Ship *NORD POL* (hereinafter referred to as *NORD POL*), while at the Port of New Orleans on March 22, 1971. The complaint was later amended to state a claim for maintenance and for damages for refusal to pay maintenance. Defendant has moved to dismiss for lack of jurisdiction.

FINDINGS OF FACT

1.

Plaintiff is a citizen of Mexico who was serving as a seaman and member of the crew of the M/S *NORD POL* on March 22, 1971, on which date he was injured aboard the vessel.

2.

The *NORD POL* is a Danish flag vessel, owned by Dampskibsselskabet "Norden" Aktieselskad (hereinafter referred to as "Norden"), a Danish limited liability company which does not maintain offices in the United States and whose stockholders are all Danish citizens or associations with the exception of one Swedish municipality, and one resident of the United States who owns .013 percent of the stock.

3.

The crew of the *NORD POL* was comprised of nationals of Denmark, Iceland, Honduras, Mexico, Chili and Sweden.

4.

From 1967 through April, 1971, the *NORD POL* called at ports of the United States of America five times.

5.

Plaintiff was hired as a member of the crew of the *NORD POL* through the Scandinavian Shipping Office, Inc., (hereafter referred to as "shipping office"), a licensee of the State of Louisiana.

6.

Shipping office is not licensed by Denmark, nor controlled by any Danish organization.

CONCLUSIONS OF LAW

A Motion to dismiss for lack of jurisdiction may be heard either before trial or be deferred.[1] Normally it will be heard before trial unless determination of the issues will necessitate going into the merits.[2] We think it is proper to entertain the motion at this time.

The seminal case for resolution of jurisdictional issues when foreign seamen and foreign flag vessels are involved is, of course, *Lauritzen v. Larsen*.[3] Although *Lauritzen* was a conflicts of law case, it is now settled that if law of the United States of America is not applicable, its forum is inappropriate and the Court should decline jurisdiction.[4] Jurisdiction doubtlessly exists,[5] but it is discretionary, not compulsory.[6] However, jurisdiction should be exercised unless there is good reason not to.[7] "Good reason" is bottomed upon the type and substantiality of

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[1] Rule 12(d), FRCP.

[2] 2(a) *Moore's Federal Practice*, para. 12.16.

[3] 354 US 571; 73 S.Ct. 921 (1953).

[4] "The real issue in *Lauritzen*, therefore, was choice of law, not the discretionary assumption of jurisdiction, but it seems generally agreed that the criteria set out in that opinion serve as an appropriate yardstick for a district court in deciding whether the United States Courts should accept or decline jurisdiction of a controversy which is essentially foreign." *Anastasiadis v. S/S LITTLE JOHN*, 346 F2d 821, 283 (CA5-1965), cert. den. 384 US 920.

[5] *Lauritzen, supra*, 345 US at p. 575; 73 S.Ct. at p. 924.

[6] *Anastasiadis, supra*, 346 F2d 281, 283 (CA5-1965), cert. den. 384 US 920; see also Norris, the Law of Seamen, (3rd Ed.) Sec. 7.

[7] *The Belgenland v. Jensen*, 114 US 355, 5 S.Ct. 860 (1885).

the contacts of the suit to the United States. *Lauritzen* establishes seven contacts or factors which are controlling and they will be discussed serially. However, it should be emphasized that *Lauritzen* does not establish a point system for jurisdiction–that is, a four to three count in favor of a United States forum would not necessarily indicate that a United States forum is proper. Rather, *Lauritzen* indicates that some factors are of greater importance than others. This is amply discussed in *Bartholomew v. Universe Tankships, Inc.*[8] wherein it was held that "substantial contacts" must exist[9] before an exertion of jurisdiction is proper.

First, the place of the wrongful act was an American port. Place of the wrong, which is still sacrosanct in many landlocked jurisdictions of this country, was greatly debilitated by the Lauritzen and Romero cases[10] and is of minor significance.[11]

Second, the law of the flag is Danish. This is perhaps the single most important factor of the seven, and must prevail unless a heavy counterweight appears.[12]

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[8] 263 F2d 437 (CA2-1959), cert. den. 359 US 1000.

[9] *Bartholomew, supra* at p. 440; cf 47 Va. L. Rev. 1400.

[10] *Romero v. International Terminal Operating Co.*, 358 US 354, 79 S.Ct. 488 (1959).

[11] "To impose on ships the duty of shifting from one standard of compensation to another as the vessel passes the boundaries of territorial waters would be not only an onerous but also an unduly speculative burden, disruptive of international commerce and without basis in the expressed policies of this country. The amount and type of recovery which a foreign seaman may receive from his foreign employer while sailing on a foreign ship should not depend on the wholly fortuitous circimstances of the place of injury." *Romero*, 358 US at 384.

[12] 345 US 571, 586; 71 S.Ct. 921, 930.

Third, the domicile of the injured party is Mexico. Although plaintiff places reliance on the fact that he has always shipped out of and into New Orleans, this would not, in itself, create an interest in the United States. This is especially so when it appears that plaintiff resides in Mexico and has no intention of remaining permanently in the United States.[13]

The fourth factor is allegiance of the shipowner which, in this case, is Danish. The fact that the shipping office is an American licensee does not make it an alter ego of the ship owner, as plaintiff contends. It does not require citation to authority, but only an appeal to reason and experience, to conclude that the location of the shipping office, which is in reality nothing more than an employment agency, does not transfer the allegiance of the Danish corporation or its stockholders to the United States.

The fifth factor is the place of the contract. This is also of minor importance, according to *Lauritzen*. Evidence that Danish law was to govern the terms of plaintiff's employment while a member of the *NORD POL's* crew indicates that the place of the contract points to Danish law.

The sixth factor is the inaccessibility of the foreign forum. This is perhaps the most difficult of the *Lauritzen* principles to apply. Clearly, in choice of law it is of no importance, but it clouds the issue when the question of jurisdiction is an issue.[14]

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[13] There seems to be a question of whether he could legally remain here. See deposition of plaintiff, pp. 60-68.

[14] "This inaccessibility of foreign forum) might be a persuasive argument for exercising a discretionary jurisdiction to adjudge a controversy; but it is not persuasive as to the law by which it shall be judged." *Lauritzen, supra*, 345 US at pp. 589-90, 73 S.Ct. at p. 932.

Before reviewing the seventh factor, law of the forum, we think it appropriate to note here that, in any event, Danish law controls the substantive rights of plaintiff. Inaccessibility of the forum almost ceases to be a factor in this case in light of the evidence that plaintiff has received the full benefits available under Danish law.

In view of the number and magnitude of the contacts with Denmark—law of the flag, allegiance of the shipowner and, possibly, place of the contract, and the lack of any real contact with the United States of America, justice would not be served by applying the law of the latter. The domicile of the injured, being Mexico, does not invest this country with an interest in his welfare so as to require the shelter of American maritime law. Thus, only the first and sixth factors indicate a United States forum. This, we believe, requires us to dismiss this action unless the plaintiff can show that he has not received the full benefit of Danish law.

The seventh factor, law of the forum, does not mean that simply because jurisdiction exists, the law of the United States of America can be applied. This is especially so where the connection between this country and the controversy is slight and fortuitous. We think this principle does not detract from application of Danish law.

Accordingly, we must declaine jurisdiction and dismiss the suit.

Let judgment be entered accordingly.

December 16, 1971

/s/Lansing L. Mitchell
United States District Judge

APPENDIX B

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 72-1458
Summary Calendar*

JESUS NOVELO PERREIRA,
Plaintiff-Appellant,

versus

DAMPSKIBSSELSKABET NORDEN A/S
and the M.S. NORDPOL,
Defendants-Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

(July 3, 1972)

Before GEWIN, AINSWORTH and SIMPSON,
Circuit Judges

PER CURIAM: AFFIRMED. See Local Rule 21.[1]

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*Rule 18, 5 Cir.; See *Isbell Enterprises, Inc. v. Citizens Casualty Company of New York, et al.*, 5 Cir. 1970, 431 F.2d 409, Part I.

[1]See *NLRB v. Amalgamated Clothing Workers of America*, 5 Cir. 1970, 430 F.2d 966.